



DRAFT REPORT OF THE
CHARTER REVISION COMMISSION
ESTABLISHED BY THE MAY 5, 2014
AND APPOINTED BY THE MAY 5, 2014
RESOLUTIONS OF THE COMMON COUNCIL
OF THE CITY OF MIDDLETOWN

JULY 8, 2014

The 2014 Charter Revision Commission was established pursuant to the authority of Connecticut General Statutes Section 7-188 (a) and (b) by the Common Council on May 5, 2014.

On May 5, 2014 the following electors of the City of Middletown were appointed to the Charter Revision Commission: Dr. David Larson, Chairman, Atty. Daniel Ryan, Atty. Dominique Thornton, Kathryn Adams, Vincent Loffredo, Robert Blanchard, Philip Pessina, Michael Gaudino, Thomas Hutton, Atty. Joseph Milardo, and Anton Petras. Marie Norwood the Clerk of the Common Council, served as staff to the Commission with General Counsel Brig Smith.

In accordance with Connecticut General Statutes Section 7-190 (b) the charge of this Commission was to update language, modernize, simplify and revise to make the Charter more constitutional in style and to consider issues raised by the City Council, public officials and residents of Middletown. The Republican Caucus asked that the Commission review the need for an elected Treasurer, Council to elect the presiding officer from its membership, Cap on Bonding to \$2.5 million, appropriations requiring nine votes, Board of Education having a separate budget from the general fund, increasing terms for Council and Mayor to four years, a Police Community Board, and a change in Initiative requiring the General Counsel to approve petitions.

Following the public hearing held on May 29, 2014, additional items were requested for review by public officials and city residents. Each item brought to the Commission's attention was considered and discussed. If additional information or research was required, Marie Norwood requested the information and provided copies of the responses to all Commission members. If the Commission decided not to make any changes, our reasoning is stated in this report. If changes are recommended for the voters of the City of Middletown to consider, our reasoning is stated in this report and a copy of the Charter of the City of Middletown along with the changes recommended is attached to this report.

The committee scheduled meetings for June and July and met on June 3, 2014, June 10, 2014, June 17, 2014, June 24, 2014 and July 8, 2014. A second public hearing was held on July 15, 2014 for the public to comment on the draft report. There was an opportunity for public comment at each meeting as well as a quorum.

The following is a comprehensive list of items that the Commission undertook to consider for Charter Revision:

1. Treasurer as appointed official instead of elected
2. Term of the Mayor from two years to four years
3. Term of the Council from two years to four years
4. Council Member as Presiding Officer of the Council and removing Mayor as Chair
5. In conjunction with an elected Presiding Officer, Common Council appointing the Corporation Council, especially in light of conflicting issues between the Mayor and Common Council
6. Cap on bonding to \$2.5 million per year and requiring nine votes to approve
7. Bonding below the \$500,000 requiring nine votes to approve
8. Raising Bond Limit to \$1 million before going to referendum
9. Term Limits for Mayor and Council
10. Mayor's Salary set by Charter
11. Staggered Terms for Council
12. Restrictions on Elected Officials
13. Mayor appoints all staff in office and no one is part of the classified system
14. Under Initiative, changing the language to have the General Counsel responsible for reviewing petitions instead of in conjunction with the Town Clerk.
15. Setting up a separate budget and taxing district for schools.
16. Middletown City Fire District/Taxing Authority

17. Eminent Domain provision for the taking of private property for other than public purposes.
18. Timing and Scheduling of the budget approval process
19. Review minority representation requirements for all City Committees, Commissions, Boards and Agencies, and in particular the Planning and Zoning Commission and Board of Education, in accordance with Connecticut General Statutes Section 9-167a.
20. Adding community members to commissions, specifically Economic Development
21. Audit Committee to oversee process and procedures
22. Notices, where they are printed and shown
23. Permanent Road Bond Committee, like a building committee
24. Language that a committee has to be empaneled by a certain time after created
25. Police Community Board
26. Compensation for the Common Council
27. Other items deemed desirable and necessary
 - A. All elected officials having a four-year term and municipal election every four years.
 - B. Amending Chapter 8, Section 1, Planning and Zoning to a quorum of five and an affirmative vote of 4.

The following articulates the Charter Revision Commission's decisions on the issues brought before us for consideration:

1. Appointing the Finance Director as Treasurer and eliminating the position as an elected position.

The Commission discussed the need for an elected treasurer. By State Statute, the treasurer is listed as an officer of the City. The position is a duplication of duties and the stipend was unnecessary. The State Statute provides for an appointed Treasurer as a City Officer. The Commission discussed the appointment of the Finance Director to serve as the Treasurer of the City with no additional compensation, stipend or bonus for such duties since the Director already does most of them. The Commission voted unanimously, by the members present (8) to remove the Treasurer as an elected official and rewrite Chapter II, Section 2 and Chapter IV, Section 4 to appoint the Finance Director to serve as Treasurer. The appointment

of the Treasurer will meet the State Statute requirement for such officer and remove it from an elected position.

2. Term of the Mayor from two years to four years

The Commission discussed that a four year term for Mayor would provide stability for the City; there is a significant learning curve and it is difficult to implement substantive change in two years. It was discussed that a four-year term could help individuals decide to run. Not worrying about reelection every two years could help Mayors focus on their vision for the City. One impact of a four-year term for Mayor is less opportunity for the public to weigh in on the performance of this elected official.

At the conclusion of the discussion, it was unanimous that the Commission recommended the following:

- A. Chapter II, Section 4, that the Mayor's term be changed from two years to four years
- B. Chapter II, Section 8, that filling any vacancy in the office of Mayor reflect the four-year term

Since it is the Mayor who implements change, he has to be employed by the City of Middletown full time which may impact careers, retirement, jobs, law and other professional practices, etc. and has the full time substantive commitment to the City of Middletown, the term should be changed from two years to four years. The issue of the learning curve is significant to the office of Mayor. The Mayor would have difficulty making any changes or implementing significant programs while elections for the office occur every two years.

The Commission also recommends changing Chapter II, Section 7, Vacancy in Office to reflect the four-year term. In the event of a permanent vacancy in the Office of the Mayor, we recommend that a Special Election be held in the event a vacancy occurs during the first thirty-six (36) months of the Mayor's term. The timing is consistent with the requirement of a

special election within the first 18 months of vacancy when the Office of Mayor is a two-year term. For the last year, the Deputy Mayor would assume the position of Mayor.

3. Term of Common Council from two years to four years.

The Commission discussed four year terms for the Council; with four year terms, it might be an incentive to get more people involved and running for office. There was concern that if you don't have the Mayor and Council at the same election, the off-year election might see a drop in voter turnout. Just as the Mayor has a learning curve, the Council has one as well and a four-year term would give new members the time to understand how municipal government works and to learn the budget process. On the two-year term side, the Common Council is not a full time position like the Mayor and having four year terms might work if it was and they were leaving jobs. Keeping the Council to two-year terms would also add to the check and balance of the four-year term of the Mayor; the off year election, if the public was not happy with the vision of the Mayor and Council, they could challenge the Mayor's direction by electing a different Council. This could be important since there is no recall provisions for elected officials. The Commission voted (2-4) recommending leaving the Council term at two years at its June 10, 2014 meeting.

The item was reviewed on June 24, 2014. The commissioners looked at having all offices run for four-year terms thus reducing the need for an off-year election. It was discussed there is a learning curve for Council members and Council members, much like the Mayor, spend the first year learning City government and the next, working on reelection; a four-year term could lead to stability and better service from an individual Council member and more continuity within City government. The two year term is the check and balance for the Mayor and with four year terms, would no longer be there. The concept of saving money by reducing

the need for elections every two years is a major consideration, especially if all offices were changed to four-year terms.

The Commission voted (4 – 2) to change the term of office for Council members from two years to four years.

4. Council Member as Presiding Officer of the Council and removing Mayor as Chair

The Commission discussed removing the Mayor as Chair at Council meetings. As part of the discussion, it was understood that the Mayor, if removed, would not have any built in conflicts as he does when he sits as Chair of the Council and the Council would not be involved with the administration of the City. It would be a separation of the Executive Branch and the Legislative Branch. At the Organizational meeting, the Council would elect its own presiding officer from the elected members. Breaking a tie vote is an important function of the Mayor as Chair. Continuity comes with the Mayor as Chair. If the issue was allegiance and voting based on that, a change in the Chair would not necessarily change the voting. Another aspect of the discussion was that removing the Mayor as Chair would create a political atmosphere. When the Charter was written, it was decided to have the Mayor as Chair for reasons that might not be true today; the Mayor's control of the Council is the power to veto. The discussion raised the issue that by not being the Chair of the Council, it would diminish the power of the Mayor.

The Commission voted (2 – 5) to not recommend this change to the Charter, but keep the Mayor as the presiding officer of the Common Council with all rights as presently stated in the Charter.

5. In conjunction with an elected Presiding Officer, Common Council appointing the Corporation Council, especially in light of conflicting issues between the Mayor and Common Council.

With no change in the presiding officer of the Council, the Commission removed this item from discussion. The Corporation Counsel will remain an appointment of the Mayor.

6. Cap on bonding to \$2.5 million per year and requiring nine votes to approve

The Commission discussed a cap on bonding to a maximum of \$2.5 million in any one fiscal year. This would amount to no more than three \$750,000 bonds during the year. The discussion encompassed hampering the Mayor and Council from doing projects that would benefit the City. Requiring nine votes may make votes more political than bipartisan. More control could be had if there is a cap and the need for nine votes. The Commission discussed that there is a cap on bonding before going to referendum and that is \$750,000; the Mayor and Council need flexibility to be able to bond when the right projects come to the City and placing a cap may hinder that process. The Commission decided (2 – 5) not to pursue this change to the Charter and to leave the language as is.

7. Bonding below the \$500,000 requiring nine votes to approve

The Commission discussed bonding below \$500,000 requiring a nine vote majority to approve; members expressed they are not sure of the difference between this vote and the previous. The concern was the appropriations made during the year that are not budgeted for and spending additional dollars that add to the budget and possibly affecting the financial well-being of the City. They change could add control to the bond spending to ensure the projects are worthwhile. Again the issue of partisanship with requiring nine votes for such matters was raised. The Commission decided (2-5) not to pursue this change to the Charter and to keep the language as is.

8. Raising Bond Limit to \$1 million before going to referendum

During the discussion of a nine vote majority to approve the bonds and applying a cap to yearly bonding, the Commission decided to consider raising the amount of bonding that would not need a referendum. Since many projects are more costly and inflation has risen and the \$750,000 hasn't been raised in six or seven years, the Commission decided to consider it. One additional consideration would be to raise the limit to \$1,000,000 and place the nine vote majority. The Commission discussed the cost of a referendum. In light of inflation and the cost to hold an election to approve the bonding, the Commission voted (4-3) to only raise the Bond Limit to \$1 million before going to referendum and to keep the vote as a simple majority as well as a public hearing separate from the meeting to vote on the bond ordinance.

9. Term Limits for Mayor and Council

Term limits was an on-going discussion by the Commission. The General Counsel, Brig Smith was asked to research whether or not in the State of Connecticut term limits could be considered. Attorney Smith, in his opinion to the Commission advised against setting term limits. The Statutes do not specifically permit municipalities to set term limits for elected officials; he based his opinion on cases dealing with elections which hold in the absence of a specific grant of authority, local governments are not authorized under Home Rule Act to alter the electoral process.

A. Term Limit for the Mayor

The commission discussed setting a lifetime limit of two, 4-year terms for the Mayor. This provision should be offered to the public to allow them to decide whether term limits should be set. This would allow for more turn-over in candidates running for office and more participation. The commission also discussed that the public should decide who runs for

mayor and term limits could discount the voter's rights to return a viable candidate to office. The vote was 2 – 6 in opposition of amending the charter to include term limits for the mayor.

B. Term Limit for the Council

The Commission discussed term limits of three, 2-year terms and two, 4-year terms for the Common Council. The discussion was similar to that of limiting the Mayor. The Commission decided against, 2 – 6 to amend the charter to include term limits.

10. Mayor's Salary set by Charter

The Commission agreed that the Mayor's salary should be removed from the political realm and should reflect a salary that is similar to what directors of the City are receiving. The general consensus was that it should be set with an annual increase, similar to what other City employees receive. The Commission also discussed that the Mayor pays into the pension system, but would have to be elected for ten years in order to receive a pension. As Mayor, the individual takes time from personal career plans and does not participate in social security during his term of office. At the end of a Mayor's service, they receive what they paid into the pension plan with nominal interest. This is a disadvantage to a person who would be giving up years in their career field without having some type of pension for those years served as Mayor, especially in the absence of social security deductions. It was noted that the Mayor receives other valued incentives like a City car and iPad, which can create its own hotspot. The Mayor is on call 24/7 and items that would be considered bonuses or perks can also be considered tools to complete the tasks that need to be done whether during normal City hall business hours or after. The members agreed that a basic salary should be in the Charter and a way to increase the salary annually that is equivalent with directors.

The Commission voted unanimously for a base salary of \$100,000 with the annual increase of CPI and a tax shelter plan to replace pension and lack of social security deductions

of \$15,000 annually during his term of office and which the Mayor would be able to take with him upon leaving office.

11. Staggered Terms for Council

The Commission, when looking at four-year terms for the Council also considered staggering terms so that off year elections from the Mayor would not just be for the offices of Board of Education, Planning and Zoning and Board of Assessment Appeals. In order to consider this option, a legal opinion was requested from General Counsel. General Counsel's opinion stated that terms of elected officials can be staggered and set by Charter. The Commission decided not to stagger the terms of the Common Council.

12. Restrictions on Elected Officials

The Commission discussed amending the language in the charter regarding restriction of elected officials to be appointed to a salaried position, including removing the Administrative Assistant and Corporation Counsel from consideration. It would restrict all Commission discussed the difference between the two positions excluded from the restriction and other City employees. Unlike City Employees, these individuals can be removed at any time by the Mayor and are not part of the Classified system. The Commission voted (2-4) not to amend the language in the Charter and to keep the language as it is.

13 Mayor appoints all staff in office and no one is part of the classified system

Because this item ties into removing the Mayor as Chair of the Counsel and is not recommended for change by the Commission, it was removed from further discussion.

14. Under Initiative, changing the language to have the General Counsel responsible for reviewing petitions instead of in conjunction with the Town Clerk.

The Commission undertook this item and unanimously approved making the change so that the General Counsel would determine whether or not the initiative would be of benefit to the City instead of the Town Clerk consulting General Counsel.

15. Setting up a separate budget and taxing district for schools.

After listening to the General Counsel give his unofficial opinion on whether or not the City could create a school district as its own taxing district, this was removed from discussion. The General Counsel on his initial take of the matter believes that the City already has a school district based on the State Statute's definition and that at the same time, the statute setting up taxing districts specifically prohibits a new school taxing district.

16. Middletown City Fire District/Taxing Authority

The Commission discussed adding a provision to the Charter for the Middletown Fire District to be set up, per State Statutes, with a Board of Commissioners elected by members of the district similar to South Fire District and Westfield Fire instead of being under the umbrella of the City Council, where many of its members are not members of this Fire District. General Counsel discussed a change to the Charter to add language, which State Statutes allow, that expressly provides for a Charter provision to supersede any special acts regarding Fire Districts. The Commission decided that was not necessary; it is a matter of taxation without representation. Information was reviewed about the other districts and it was noted that there is a significant difference in the mill rates among the districts. Currently two of the districts hold elections for commissioners who then govern the Fire District and set budgets and the number of personnel needed as well as equipment required. The Commissioners are members of the

district and the budget is approved by the taxpayers in that district. For the Middletown Fire District, the Mayor and Common Council oversee the department and currently only one person is an actual taxpayer in that fire district.

The Commission voted unanimously (6) to approve adding an amendment to the Charter to establish the City of Middletown Fire District, with five elected commissioners for a term of five years; they requested General Counsel to draw up appropriate language in line with the South Fire District and Westfield Fire District to allow for the district taxpayer to have more voice about the budget and mill rate for this district.

17. Eminent Domain provision for the taking of private property for other than public purposes.

The Commission discussed adding an eminent domain provision to the Charter that would allow property owners who file an objection when eminent domain is initiated against their property, that a process will be initiated where by it must be submitted to the voters for an approval of taking at a special or general election. The Commission requested an opinion from General Counsel to ensure the language was in line with State Statutes especially in light of the Kelo case in New London. The opinion given by General Counsel was alternate language that is broader than the proposed language. In light of the Kelo case, the State amended eminent domain statutes to tighten control of its use by municipalities. The language proposed in the amendment would further tie the hands of the City if it required the use of eminent domain in any redevelopment that occurs. The proposed language tightens further the State statute and lowers the ceiling for the City's use of eminent domain. Because eminent domain can be used for public and private ventures if it benefits the public, the Commission weighed the needs of a City to take property for public use and the rights of the property

owner. The proposed language could reduce further the City's ability to use eminent domain even more than the current State Statutes.

The Commission voted 2 – 6 not to not amend the Charter to include language of Eminent domain.

18. Timing and Scheduling of the budget approval process

The Commission heard from the Common Council Clerk who explained the schedule and that it was changed through Charter Revision in 2008 to accommodate a later date for a budget approval. The concerns then discussed by the Commission is the timing of approving the budget and if a referendum is called, time to have the referendum and get the tax bills out by July 1 (as provided for in the State Statutes Section 7-383). Unless the Commission specifically hears from the Council a specific adjustment to the schedule, they chose not to consider this item.

19. More Bipartisanship with elected officials like Planning and Zoning.

The Commission recommends no changes to Chapter II, Section 5, Minority Representation. State Statutes allows for minority representation which includes Independent parties to be included as minority parties. The Commission by a majority of its members chose not to consider this recommendation.

26. Compensation for the Council

The Commission discussed the need to consider the Council's stipend and removing it from the political realm because of the amount of time each Council member spends doing the business of the City, not only at Council meetings, but also at subcommittee meetings. For many years, like the Mayor, the Council's stipend has not been raised and has been lowered. The stipend is used to cover any costs that members of the Council incur while doing the

business of the City. We discussed a \$100 raise on the current amount of \$7,200 to \$8,400 per year with an increase yearly based on CPI.

The Commission voted (4 -2) to stipulate the stipend in the Charter as \$8,400, or \$100 a month above the current budgeted amount; the Commission voted (4 – 3 with the Chair breaking the tie) to an annual increase of CPI.

27. Other Items

A. All elected officials have four-year terms to reduce municipal elections to once every four years.

The Commission discussed whether all elected officials should have a four year term, to include the Mayor, Common Council, Board of Education, Planning and Zoning, and Board of Assessment Appeals. They voted unanimously to four-year, non-staggered terms to reduce costs of municipal elections to every four years.

However, the General Counsel's Opinion shows that the Planning and Zoning Commission must have staggered terms because its membership is greater than five commissioners. General Counsel stated they could reduce the Planning and Zoning Commission to five and then all the terms could expire every four years. The discussion also included making some members 8 year terms and some 4 to keep the seven member commission and to avoid an election every two years. Additional discussion was to stagger Common Council terms to add to the off-year election and to keep the members of the public engaged in municipal elections. The fear that not having the Council or Mayor as part of the election may reduce the number of voters at the polls for election of the off-year Board of Education and Planning and Zoning Candidates.

The final vote of the Commission was to leave both the Board of Education and Planning and Zoning Commission as they are with staggered terms, necessitating a municipal

election for those members every two years. They would keep the Mayor, Common Council, and Board of Assessment Appeals as four-year terms.

The Commission welcomes suggestions from the Council regarding the terms of elected officials and avoiding off year elections or keeping the voters engaged in off year elections for Planning and Zoning and Board of Education members.

B. Amending Chapter 8, Section 1 Planning and Zoning

The Commission discussed amending Planning and Zoning to reduce the quorum to five and to reduce the need of affirmative votes to 4. The need to require five votes to approve projects adds an unreasonable burden to overcome by people trying to do something with their property. The State Statutes require a simple majority and the five votes needed in Middletown hamper the efficiency of the flow of business. It was also discussed that the five votes have helped Middletown maintain development because subdivisions have been denied. It allows for bipartisanship in the development of Middletown and has served Middletown well. The vote to amend this section was 2 – 6 and fails. No changes are recommended to this section of the Charter.

The following items were reviewed by the Commission at its June 3, 2014 meeting. The Commission reviewed the items as to whether or not they would be appropriate in the Charter or if there were other avenues for such items to be incorporated into the City government. Since the Council, through the Charter, has the authority to set up committee, commissions, boards, and agencies by ordinance, we agreed the proper method would be by amending ordinances or creating them. Regarding notices, the CT General Statutes outline where they are posted and when. The Commission decided to offer no changes to the Charter on these suggestions.

- 20. Adding community members to commissions, specifically Economic Development**
- 21. Audit Committee to oversee process and procedures**
- 22. Notices, where they are printed and shown**
- 23. Permanent Road Bond Committee, like a building committee**
- 24. Language that a committee has to be empaneled by a certain time after created**
- 25. Police Community Board**

Appendix A holds the recommendations that the Commission has voted to present to the Council as changes to the Charter.

Appendix B shows the language changes as approved by the City's General Counsel and if approved by the Council would be moved forward to referendum by the City's electors.

Dated at Middletown, Connecticut this

David Larson
Chair, 2014 Charter Revision Commission